



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**  
**HB4192**

Introduced 1/23/2004, by Jack D. Franks

**SYNOPSIS AS INTRODUCED:**

10 ILCS 5/10-8	from Ch. 46, par. 10-8
10 ILCS 5/10-10	from Ch. 46, par. 10-10

Amends the Election Code. Provides that upon the filing of an objector's petition to a certificate of nomination or nomination papers or a proposed amendment or question of public policy, a copy of the petition may be transmitted by fax machine to the necessary parties, rather than by mail. Effective immediately.

LRB093 15973 RAS 41596 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Election Code is amended by changing  
5 Sections 10-8 and 10-10 as follows:

6 (10 ILCS 5/10-8) (from Ch. 46, par. 10-8)

7 Sec. 10-8. Certificates of nomination and nomination  
8 papers, and petitions to submit public questions to a  
9 referendum, being filed as required by this Code, and being in  
10 apparent conformity with the provisions of this Act, shall be  
11 deemed to be valid unless objection thereto is duly made in  
12 writing within 5 business days after the last day for filing  
13 the certificate of nomination or nomination papers or petition  
14 for a public question, with the following exceptions:

15 A. In the case of petitions to amend Article IV of the  
16 Constitution of the State of Illinois, there shall be a  
17 period of 35 business days after the last day for the  
18 filing of such petitions in which objections can be filed.

19 B. In the case of petitions for advisory questions of  
20 public policy to be submitted to the voters of the entire  
21 State, there shall be a period of 35 business days after  
22 the last day for the filing of such petitions in which  
23 objections can be filed.

24 Any legal voter of the political subdivision or district in  
25 which the candidate or public question is to be voted on, or  
26 any legal voter in the State in the case of a proposed  
27 amendment to Article IV of the Constitution or an advisory  
28 public question to be submitted to the voters of the entire  
29 State, having objections to any certificate of nomination or  
30 nomination papers or petitions filed, shall file an objector's  
31 petition together with a copy thereof in the principal office  
32 or the permanent branch office of the State Board of Elections,

1 or in the office of the election authority or local election  
2 official with whom the certificate of nomination, nomination  
3 papers or petitions are on file. In the case of nomination  
4 papers or certificates of nomination, the State Board of  
5 Elections, election authority or local election official shall  
6 note the day and hour upon which such objector's petition is  
7 filed, and shall, not later than 12:00 noon on the second  
8 business day after receipt of the petition, transmit by  
9 registered mail, facsimile machine, or receipted personal  
10 delivery the certificate of nomination or nomination papers and  
11 the original objector's petition to the chairman of the proper  
12 electoral board designated in Section 10-9 hereof, or his  
13 authorized agent, and shall transmit a copy by registered mail, facsimile machine,  
14 facsimile machine, or receipted personal delivery of the  
15 objector's petition, to the candidate whose certificate of  
16 nomination or nomination papers are objected to, addressed to  
17 the place of residence designated in said certificate of  
18 nomination or nomination papers. In the case of objections to a  
19 petition for a proposed amendment to Article IV of the  
20 Constitution or for an advisory public question to be submitted  
21 to the voters of the entire State, the State Board of Elections  
22 shall note the day and hour upon which such objector's petition  
23 is filed and shall transmit a copy of the objector's petition  
24 by registered mail, facsimile machine, or receipted personal  
25 delivery to the person designated on a certificate attached to  
26 the petition as the principal proponent of such proposed  
27 amendment or public question, or as the proponents' attorney,  
28 for the purpose of receiving notice of objections. In the case  
29 of objections to a petition for a public question, to be  
30 submitted to the voters of a political subdivision, or district  
31 thereof, the election authority or local election official with  
32 whom such petition is filed shall note the day and hour upon  
33 which such objector's petition was filed, and shall, not later  
34 than 12:00 noon on the second business day after receipt of the  
35 petition, transmit by registered mail, facsimile machine, or  
36 receipted personal delivery the petition for the public

1 question and the original objector's petition to the chairman  
2 of the proper electoral board designated in Section 10-9  
3 hereof, or his authorized agent, and shall transmit a copy by  
4 registered mail, facsimile machine, or receipted personal  
5 delivery, of the objector's petition to the person designated  
6 on a certificate attached to the petition as the principal  
7 proponent of the public question, or as the proponent's  
8 attorney, for the purposes of receiving notice of objections.

9 The objector's petition shall give the objector's name and  
10 residence address, and shall state fully the nature of the  
11 objections to the certificate of nomination or nomination  
12 papers or petitions in question, and shall state the interest  
13 of the objector and shall state what relief is requested of the  
14 electoral board.

15 The provisions of this Section and of Sections 10-9, 10-10  
16 and 10-10.1 shall also apply to and govern objections to  
17 petitions for nomination filed under Article 7 or Article 8,  
18 except as otherwise provided in Section 7-13 for cases to which  
19 it is applicable, and also apply to and govern petitions for  
20 the submission of public questions under Article 28.

21 (Source: P.A. 86-1348.)

22 (10 ILCS 5/10-10) (from Ch. 46, par. 10-10)

23 Sec. 10-10. Within 24 hours after the receipt of the  
24 certificate of nomination or nomination papers or proposed  
25 question of public policy, as the case may be, and the  
26 objector's petition, the chairman of the electoral board other  
27 than the State Board of Elections shall send a call by  
28 registered or certified mail or transmit a call by facsimile  
29 machine to each of the members of the electoral board, and to  
30 the objector who filed the objector's petition, and either to  
31 the candidate whose certificate of nomination or nomination  
32 papers are objected to or to the principal proponent or  
33 attorney for proponents of a question of public policy, as the  
34 case may be, whose petitions are objected to, and shall also  
35 cause the sheriff of the county or counties in which such

1 officers and persons reside to serve a copy of such call upon  
2 each of such officers and persons, which call shall set out the  
3 fact that the electoral board is required to meet to hear and  
4 pass upon the objections to nominations made for the office,  
5 designating it, and shall state the day, hour and place at  
6 which the electoral board shall meet for the purpose, which  
7 place shall be in the county court house in the county in the  
8 case of the County Officers Electoral Board, the Municipal  
9 Officers Electoral Board, the Township Officers Electoral  
10 Board or the Education Officers Electoral Board. The Township  
11 Officers Electoral Board may meet in the township offices, if  
12 they are available, rather than the county courthouse. In those  
13 cases where the State Board of Elections is the electoral board  
14 designated under Section 10-9, the chairman of the State Board  
15 of Elections shall, within 24 hours after the receipt of the  
16 certificate of nomination or nomination papers or petitions for  
17 a proposed amendment to Article IV of the Constitution or  
18 proposed statewide question of public policy, send a call by  
19 registered or certified mail to the objector who files the  
20 objector's petition, and either to the candidate whose  
21 certificate of nomination or nomination papers are objected to  
22 or to the principal proponent or attorney for proponents of the  
23 proposed Constitutional amendment or statewide question of  
24 public policy and shall state the day, hour and place at which  
25 the electoral board shall meet for the purpose, which place may  
26 be in the Capitol Building or in the principal or permanent  
27 branch office of the State Board. The day of the meeting shall  
28 not be less than 3 nor more than 5 days after the receipt of the  
29 certificate of nomination or nomination papers and the  
30 objector's petition by the chairman of the electoral board.

31 The electoral board shall have the power to administer  
32 oaths and to subpoena and examine witnesses and at the request  
33 of either party the chairman may issue subpoenas requiring the  
34 attendance of witnesses and subpoenas duces tecum requiring the  
35 production of such books, papers, records and documents as may  
36 be evidence of any matter under inquiry before the electoral

1 board, in the same manner as witnesses are subpoenaed in the  
2 Circuit Court.

3 Service of such subpoenas shall be made by any sheriff or  
4 other person in the same manner as in cases in such court and  
5 the fees of such sheriff shall be the same as is provided by  
6 law, and shall be paid by the objector or candidate who causes  
7 the issuance of the subpoena. In case any person so served  
8 shall knowingly neglect or refuse to obey any such subpoena, or  
9 to testify, the electoral board shall at once file a petition  
10 in the circuit court of the county in which such hearing is to  
11 be heard, or has been attempted to be heard, setting forth the  
12 facts, of such knowing refusal or neglect, and accompanying the  
13 petition with a copy of the citation and the answer, if one has  
14 been filed, together with a copy of the subpoena and the return  
15 of service thereon, and shall apply for an order of court  
16 requiring such person to attend and testify, and forthwith  
17 produce books and papers, before the electoral board. Any  
18 circuit court of the state, excluding the judge who is sitting  
19 on the electoral board, upon such showing shall order such  
20 person to appear and testify, and to forthwith produce such  
21 books and papers, before the electoral board at a place to be  
22 fixed by the court. If such person shall knowingly fail or  
23 refuse to obey such order of the court without lawful excuse,  
24 the court shall punish him or her by fine and imprisonment, as  
25 the nature of the case may require and may be lawful in cases  
26 of contempt of court.

27 The electoral board on the first day of its meeting shall  
28 adopt rules of procedure for the introduction of evidence and  
29 the presentation of arguments and may, in its discretion,  
30 provide for the filing of briefs by the parties to the  
31 objection or by other interested persons.

32 In the event of a State Electoral Board hearing on  
33 objections to a petition for an amendment to Article IV of the  
34 Constitution pursuant to Section 3 of Article XIV of the  
35 Constitution, or to a petition for a question of public policy  
36 to be submitted to the voters of the entire State, the

1 certificates of the county clerks and boards of election  
2 commissioners showing the results of the random sample of  
3 signatures on the petition shall be prima facie valid and  
4 accurate, and shall be presumed to establish the number of  
5 valid and invalid signatures on the petition sheets reviewed in  
6 the random sample, as prescribed in Section 28-11 and 28-12 of  
7 this Code. Either party, however, may introduce evidence at  
8 such hearing to dispute the findings as to particular  
9 signatures. In addition to the foregoing, in the absence of  
10 competent evidence presented at such hearing by a party  
11 substantially challenging the results of a random sample, or  
12 showing a different result obtained by an additional sample,  
13 this certificate of a county clerk or board of election  
14 commissioners shall be presumed to establish the ratio of valid  
15 to invalid signatures within the particular election  
16 jurisdiction.

17 The electoral board shall take up the question as to  
18 whether or not the certificate of nomination or nomination  
19 papers or petitions are in proper form, and whether or not they  
20 were filed within the time and under the conditions required by  
21 law, and whether or not they are the genuine certificate of  
22 nomination or nomination papers or petitions which they purport  
23 to be, and whether or not in the case of the certificate of  
24 nomination in question it represents accurately the decision of  
25 the caucus or convention issuing it, and in general shall  
26 decide whether or not the certificate of nomination or  
27 nominating papers or petitions on file are valid or whether the  
28 objections thereto should be sustained and the decision of a  
29 majority of the electoral board shall be final subject to  
30 judicial review as provided in Section 10-10.1. The electoral  
31 board must state its findings in writing and must state in  
32 writing which objections, if any, it has sustained.

33 Upon the expiration of the period within which a proceeding  
34 for judicial review must be commenced under Section 10--10.1,  
35 the electoral board shall, unless a proceeding for judicial  
36 review has been commenced within such period, transmit, by

1 registered or certified mail, a certified copy of its ruling,  
2 together with the original certificate of nomination or  
3 nomination papers or petitions and the original objector's  
4 petition, to the officer or board with whom the certificate of  
5 nomination or nomination papers or petitions, as objected to,  
6 were on file, and such officer or board shall abide by and  
7 comply with the ruling so made to all intents and purposes.

8 (Source: P.A. 91-285, eff. 1-1-00.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.